

§ 891.545

24 CFR Ch. VIII (4-1-03 Edition)

mortgage of the Borrower as the Assistant Secretary may prescribe.

(d) In loan disbursements for building components stored off-site, the term *building component* shall mean any manufactured or preassembled part of a structure as defined by HUD and that the Assistant Secretary has designated for off-site storage because it is of such size or weight that storage of the components required for timely construction progress at the construction site is impractical, or weather damage or other adverse conditions prevailing at the construction site would make storage at the site impractical or unduly costly. Each building component must be specifically identified for incorporation into the property as provided under paragraph (d)(1)(ii) of this section.

(1) *Storage.* (i) A loan disbursement may be made for up to 90 percent of the invoice value (to exclude costs of transportation and storage) of the building components stored off-site if the components are stored at a location approved by HUD.

(ii) Each building component shall be adequately marked so as to be readily identifiable in the inventory of the off-site location. It shall be kept together with all other building components of the same manufacturer intended for use in the same project for which loan disbursements have been made and separate and apart from similar units not for use in the project.

(iii) Storage costs, if any, shall be borne the general contractor.

(2) *Responsibility for transportation, storage and insurance of off-site building components.* The general contractor of the project shall have the responsibility for:

(i) Insuring the components in the name of the Borrower while in transit and storage; and

(ii) Delivering or contracting for the delivery of the components to the storage area and to the construction site, including payment of freight.

(3) *Loan disbursements.* (i) Before a loan disbursement for a building component stored off-site is made, the Borrower shall:

(A) Obtain a bill of sale for the component;

(B) Provide HUD with a security agreement pledged by a first lien on the building components with the exception of such other liens or encumbrances as may be approved by HUD; and

(C) File a financing statement in accordance with the Uniform Commercial Code.

(ii) Before each loan disbursement for building components stored off-site is made the manufacturer and the general contractor shall certify to HUD that the components, in their intended use, comply with HUD-approved contract plan and specifications.

(iii) Loan disbursements may be made only for components stored off-site in a quantity required to permit uninterrupted installation at the site.

(iv) At no time shall the invoice value of building components being stored off-site, for which advances have been insured, represent more than 25 percent of the total estimated construction costs for the insured mortgaged project as specified in the construction contract. Notwithstanding the preceding sentence and other regulatory requirements that set bonding requirements, the percentage of total estimated construction costs insured by advances under this section may exceed 25 percent but not 50 percent if the mortgagor furnishes assurance of completion in the form of a corporate surety bond for the payment and performance each in the amount of 100 percent of the amount of the construction contract. In no event will insurance of components stored off-site be made in the absence of a payment and performance bond.

(v) No single loan disbursement which is to be made shall be in an amount less than ten thousand (\$10,000) dollars.

§ 891.545 Completion of project, cost certification, and HUD approvals.

(a) The Borrower must satisfy the requirements for completion of construction and substantial rehabilitation and approvals by HUD before submission of a final requisition for disbursement of loan proceeds.

(b) The Borrower shall submit to the field office all documentation required

for final disbursement of the loan, including:

(1) A Borrower's/Mortgagor's Certificate of Actual Cost, showing the actual cost to the mortgagor of the construction contract, architectural, legal, organizational, offsite costs, and all other items of eligible expense. The certificate shall not include as actual cost any kickbacks, rebates, trade discounts, or other similar payments to the mortgagor or to any of its officers, directors, or members.

(2) A verification of the Certificate of Actual Cost by an independent Certified Public Accountant or independent public accountant acceptable to the field office.

(3) In the case of projects not subject to competitive bidding, a certification of the general contractor (and of such subcontractors, material suppliers, and equipment lessors as the Assistant Secretary or field office may require), on a form prescribed by the Assistant Secretary, as to all actual costs paid for labor, materials, and subcontract work under the general contract exclusive of the builder's fee and kickbacks, rebates, trade discounts, or other similar payments to the general contractor, the mortgagor, or any of its officers, directors, stockholders, partners, or members.

(c) In lieu of the requirements set forth in paragraphs (c)(1) and (3) of this section, a simplified form of cost certification prescribed by the Secretary may be completed and submitted by the Borrower for projects with mortgages of \$500,000 or less. The simplified cost certification shall be verified by an independent Certified Public Accountant or an independent public accountant in a manner acceptable to the Secretary.

(d) If the Borrower's certified costs provided in accordance with paragraph (c) or (d) of this section and as approved by HUD are less than the loan amount, the contract rents will be reduced accordingly.

(e) If the contract rents are reduced pursuant to paragraph (e) of this section, the maximum annual HAP Contract commitment will be reduced. If contract rents are reduced based on cost certification after HAP Contract execution, any overpayment after the

effective date of the Contract will be recovered from the Borrower by HUD.

(Approved by the Office of Management and Budget under control number 2502-0044)

§ 891.555 Smoke detectors.

(a) *Performance requirement.* After October 30, 1992, each dwelling unit must include at least one battery-operated or hard-wired smoke detector, in proper working condition, on each level of the unit. If the unit is occupied by hearing-impaired persons, smoke detectors must have an alarm system designed for hearing-impaired persons in each bedroom occupied by a hearing-impaired person.

(b) *Acceptability criteria.* The smoke detector must be located, to the extent practicable, in a hallway adjacent to a bedroom, unless the unit is occupied by a hearing-impaired person, in which case each bedroom occupied by a hearing-impaired person must have an alarm system connected to the smoke detector installed in the hallway.

§ 891.560 HAP contract.

(a) *HAP contract.* The housing assistance payments contract sets forth rights and duties of the Borrower and HUD with respect to the project and the housing assistance payments.

(b) *HAP contract execution.* (1) Upon satisfactory completion of the project, the Borrower and HUD shall execute the HAP contract on the form prescribed by HUD.

(2) The effective date of the HAP contract may be earlier than the date of execution, but no earlier than the date of HUD's issuance of the permission to occupy.

(3) If the project is completed in stages, the procedures of paragraph (b) of this section shall apply to each stage.

(c) *Housing assistance payments to owners under the HAP contract.* The housing assistance payments made under the HAP contract are:

(1) *Payments to the Borrower to assist eligible families leasing assisted units.* The amount of the housing assistance payment made to the Borrower for an assisted unit leased to an eligible family is equal to the difference between the contract rent for the unit and the tenant rent payable by the family.